

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: BRACKETT N. L., *et al.*

Confirmation No: 6890

Application No.: 10/748,637

Examiner: SCHUBERG, L. J.

Date Filed: December 30, 2003

Group: 1657

For: INCREASING SPERM MOTILITY

WRITTEN REPLY TO THE INTERVIEW SUMMARY

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Interview Summary mailed July 31, 2008. This response is being filed within the one month non-extendable period. The Commissioner for Patents and Trademarks is hereby authorized to charge the amount due for any retroactive extensions of time and any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing or during prosecution of this application to 04-0100.

Remarks/Arguments begin on page 2 of this paper.

REMARKS

Applicants have filed a written summary of the interview with the response to the Office Action on August 5, 2008, prior to receipt of the Interview Summary mailed July 31, 2008.

Applicants would like to thank the Primary Examiner Lankford and Examiner Schuberg for the courtesy extended during the teleconference held on July 28, 2008. During the teleconference, Applicants orally presented the background and circumstances which ultimately lead to the instant invention, the difficulties encountered during the conception and reduction to practice of the invention and the general state of the knowledge of the art at the time the invention was conceived. The references, cited by the Examiner in the Office Action of record, were also discussed in the context of the instant invention. Although the Examiner indicates that an agreement was not reached, an agreement was reached for Applicants to amend claim 1 to recite a further step directed to identifying or detecting the cytokine profile in the sample from patients as compared to normal individuals and reiterated in the Interview Summary. The step is followed by addition of an anti-cytokine agent or agents specific for the detected cytokines in the cytokine profile and resulting in the neutralization of the detected cytokines. Applicants have amended the claims in accordance with the discussions during the teleconference and have filed these amendments with the Response to the Office Action on August 5, 2008, along with arguments that distinguish the invention over the cited references. Applicants submit that amendments should distinguish over the cited references, both in combination and standing alone, as these do not teach or disclose identifying a cytokine profile of each individual patient, followed by contact with a specific anti-cytokine agent such as an antibody or receptor blockers to the cytokines identified in the sample. Any amendments made by Applicants were solely to respond to the instant Office Action and is not to be construed as surrender of any subject matter. Applicants reserve the right to pursue any amended or canceled subject matter in one or more continuation or divisional applications.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of all rejections and allowance of the application is respectfully solicited.

If there are any remaining issues or the Examiner believes that a telephone conversation with the undersigned would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at telephone number shown below.

The Commissioner for Patents and Trademarks is hereby authorized to charge the amount due for any retroactive extensions of time and any deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing or during prosecution of this application to Deposit Account No. 04-0100.

Respectfully submitted,

Date: August 31, 2008

/Nicholas A. Zachariades/
Nicholas A. Zachariades, Ph.D.
Registration No. 56,712
Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, New York 10008-0770
(561) 209-1507
(212) 527-7701 (Fax)
Attorneys/Agents For Applicant